REMARKS

Claims 1-13 are pending in the application. Reconsideration is requested in view of the above amendments and the following remarks.

The Examiner has considered the Applicants arguments, but has deemed them moot in view of new rejections presented by the Examiner.

Claims 1-13 stand rejected as being provisionally rejected on the ground of nonstatutory obviousness-type double patenting in view of:

claims 4-17 of copending application no. 09/800,328;

claims 1-36 of copending application no. 10/655,387; and

claims 1-12 of copending application no. 09/838,979.

Reconsideration of the rejection is respectfully requested in view of the above amendments and the remarks presented herein. In the event the Examiner maintains this rejection, Applicant acknowledges that it may be overcome by submitting a terminal disclaimer.

Claims 1-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,070,528 ("Hawe") in view of US Patent 6,393,568 ("Ranger"). This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection is hereby respectfully requested.

The Applicant's invention is not disclosed or suggested by the Hawe reference alone or even when combined with Ranger as the Examiner proposes. Accordingly, Applicant's present invention should be patentable. The Examiner contends that Hawe discloses an apparatus and method for intercepting and processing code on a communications channel, specifically asserting that the protocol is parsed by means of a

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protocol parser and then transferred to be decrypted (by means of a decryption component) (citing col. 10, lines 38-44 and col. 10, line 63 – col. 11, line 1). The Examiner interprets Hawe to read that the code is intercepted by the protocol parsing means as it is transmitted through the communication channel, contending that this is so because Hawe appears to disclose a step of identifying the protocol (by means of a protocol scanner) used to generate the packets to determine which type of encryption is needed (citing col. lines 38-44).

The Examiner admits that Hawe is deficient of a disclosure of a proscribed code scanner that scans the decrypted code, and seeks to fill this deficiency with the additional Ranger reference. The Examiner contends that Ranger, at col. 6, lines 32-43, teaches indicating the presence of the proscribed code if the indicator is positive. The Examiner contends that it would have been obvious to apply decryption prior to scanning for viruses, since Ranger appears to the Examiner to discuss a need for detecting viruses in communications received in encrypted form such that it would provide virus protection in real time for a communication system (citing col. 1, lines 58-64) and that virus programs are not able to decrypt encrypted information (citing col. 1, lines 21-23). The Examiner therefore concludes that one looking at Hawe would see Ranger as beneficial as a means of scanning encrypted files by decrypting the files prior to scanning for viruses to provide real-time content inspection for viruses.

The references cited by the Examiner do not teach, suggest or disclose the Applicant's invention. Applicant has amended claim 1 to more particularly articulate the invention by reciting that <u>said scanner reintroduces to the communication channel all, some or none of the intercepted code</u> . Applicant's present method and apparatus claims

intercepting and processing code on a communications channel. Applicant's method and apparatus are thus operating at the streams level. Referring to the Applicant's specification, at par [0022]:

> The preferred embodiments process code. The preferred embodiments process, that is, intercept, examine, and/or control *any or all code streams transferred* through any number of connections in a computer or network. Intercepting, examining and/or controlling code includes but is not limited to monitoring, blocking, logging, quarantining, discarding or transferring code.

In other words, streaming data, or the sequence of digitally encoded coherent signals, is what Applicant's invention relates to. Hawe relates to files or packets, and appears to be operating at a different level than the Applicant's invention.

Furthermore, Applicant's invention is further distinguishable over Hawe. Hawe discloses appending a cryptographic preamble to the beginning of an information packet and using a cryptographic processor to determine the need for cryptographic processing based on the preamble previously appended, and stripping the preamble before transmission onto the network. Applicant's invention provides a protocol parser which intercepts code traveling *on a communications channel*, and transmits the code for review by a code scanner, whereupon the code (some, none or all) is reintroduced to the communications channel. Hawe fails to disclose a protocol parser which may be placed so as to intercept code passing through a particular communications channel and communicate code to a protocol scanner. Hawe discloses providing a receive data path which includes a DES (data encryption standard). If the Examiner considers that Haws discloses a protocol parser, and deems that structure to be the Hawe receive control state machine (24) (see col. 9, lines 65-66), then this cannot be Applicant's invention. Hawe fails to disclose a protocol parser, but merely uses language indicating that "parsing of an

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incoming packet" is being accomplished. Applicant discloses and claims a protocol parser, and in addition thereto, claims a protocol scanner. Hawe appears to disclose parsing or analyzing an incoming data packet. Again, Hawe is not operating at the streams level, as is Applicant's claimed invention.

Applicant's invention is still not disclosed even upon making the combination proposed by the Examiner. Hawe discusses that the function of the receive control state machine (24) is to parse or analyze each incoming data packet received from the media access control (MAC).

Hawe, contrary to the Applicant' present invention, prepends code in order for the Hawe method to be carried out. This is further illustrated in that Hawe, in each of its claims, defines as its invention, this prepending (though Hawe refers to it as appending to the front a code sequence). Applicant's invention provides scanning of a stream of communication, and not files, and not using appended/prepended content. Hawe not only fails to disclose or suggest the Applicant's claimed invention, but rather, Hawe relates to and teaches something else. Hawe does not appear to function, nor does it provide any suggestion of how to function, as the Applicant's claimed method and apparatus do.

It would be inconsistent to apply the teachings of Ranger, since the Examiner relies on Ranger for a disclosure of a content inspection mechanism which the Examiner considers to be a proscribed code scanner. According to Hawe, there is parsing an LLC (logical link control) header, and when the cryptographic processor does not recognize a SNAP/SAP packet, then a decision is made not to decrypt (block 42) and the packet is passed on to the RMC interface without further cryptographic processing. (See col. 11, lines 32-39.) Therefore, it is contrary to the teachings of Hawe to decrypt packets in the

manner which the Examiner maintains that Ranger suggests. One of ordinary skill in the

art would not have looked to Ranger's teaching as being combinable with Hawe.
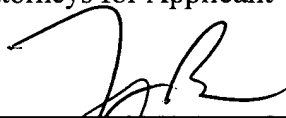
CONCLUSION

Applicant's invention is not taught, suggested or disclosed by the cited references

relied on by the Examiner. Accordingly, Applicant's presently claimed invention should

be patentable.

If necessary, an appropriate extension of time to respond is respectfully requested.

The Commissioner is authorized to charge any additional fees which may be

required to Patent Office Deposit Account No. 05-0208.

Respectfully submitted,
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